

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DAVID L. MOORE, D.D.S.

APPELLANT,

**v.
MISSOURI DENTAL BOARD**

RESPONDENT.

DOCKET NUMBER WD71065
DATE: March 9, 2010

Appeal From:

Cole County Circuit Court
The Honorable Richard G. Callahan, Judge

Appellate Judges:

Division Four: Thomas H. Newton, Chief Judge, Karen King Mitchell and Cynthia L. Martin,
Judges

Attorneys:

Audrey H. McIntosh, Jefferson City, MO, for appellant.

Loretta L. Schouten, Columbia, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DAVID L. MOORE, D.D.S.,

APPELLANT,

v.

MISSOURI DENTAL BOARD,

RESPONDENT.

No. WD71065

Cole County

Before Division Four: Thomas H. Newton, Chief Judge, Karen King Mitchell and Cynthia L. Martin, Judges

David L. Moore ("Moore") appeals from a disciplinary order ("Order") issued by the Missouri Dental Board ("Board") revoking Moore's dental license and barring reapplication for a period of not less than one year. The Order imposed additional discipline pursuant to section 324.042, formerly section 620.153, as Moore was found to have violated a previous disciplinary agreement. Moore complains that the Order is not supported by competent and substantial evidence because the Board improperly took official notice of records from the earlier disciplinary proceeding and relied on those records to enter the Order though the records were not admitted in evidence in the manner required by section 536.070 (5) or (6). Moore also complains that the additional discipline imposed by the Order is not supported by competent and substantial evidence.

AFFIRMED.

Division Four holds:

The transcript of the proceeding leaves no question that the Board did not take official notice or notice by reference on the record of its records from the prior disciplinary proceeding with Moore in the manner required by section 536.070 (5) or (6). Thus, the records were not permissibly before the Board for its consideration in determining whether to impose additional discipline. However, the Order imposing additional discipline is supported by other competent and substantial evidence drawn from the hearing transcript and the admitted allegations in the Complaint.

The Board's decision to revoke Moore's license as additional discipline for Moore's second disciplinary action involving the use of cocaine was supported by competent and substantial evidence, notwithstanding competing evidence of Moore's voluntary attempts at rehabilitation and a recommendation that Moore should be permitted to continue practicing dentistry.

Opinion by: Cynthia L. Martin, Judge

March 9, 2010

This summary is UNOFFICIAL and should not be quoted or cited.
